

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

**Mt. Carmel Public Utility Co.** :  
 :  
**Application for a Certificate of** :  
**Public Convenience and Necessity** :  
**under Section 8-406 of the Illinois** : **07-0530**  
**Public Utilities Act for** :  
**construction, operation and** :  
**maintenance of a 69 kV and 138 kV** :  
**dual constructed multi-grounded** :  
**electric transmission line and** :  
**substation in Wabash County,** :  
**Illinois.** :

**ORDER**

By the Commission:

**I. INTRODUCTION AND PROCEDURAL BACKGROUND**

On October 29, 2007, Mt. Carmel Public Utility Co. ("MCPU" or "the Company") filed with the Illinois Commerce Commission ("Commission") an Application for a Certificate of Public Convenience and Necessity under Section 8-406 of the Illinois Public Utilities Act ("the Act") for construction, operation and maintenance of a 69 kilovolt ("kV") and 138 kV dual constructed multi-grounded electric transmission line and substation in Wabash County, Illinois.

Pursuant to proper legal notice, including notice to the landowners, a status hearing was held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois on November 19, 2007. An evidentiary hearing was held on January 15, 2008, before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois. Appearances were entered by the Company's counsel and by Staff of the Illinois Commerce Commission ("Staff"). The Company presented the testimony of Mr. Dan Long, a consultant working on behalf of the Company. Staff presented the testimony of Mr. Greg Rockrohr of the Engineering Department, Energy Division and Ms. Janis Freetly of the Finance Department, Financial Analysis Division. At the conclusion of the evidentiary hearing, the record was marked "Heard and Taken." The Company prepared a draft order, to which Staff did not object.

MCPU is an Illinois corporation and a public utility, within the scope and meaning of 220 ILCS 5/3-105, that provides electric and natural gas service to customers in Mt. Carmel, Illinois and the surrounding area in Wabash County. Its service area is supplied

with electricity from the west by its 138 kV line from an Ameren substation at Albion, Illinois and from the north by its 69 kV line from an Ameren substation at Lawrenceville, Illinois.

## **II. DESCRIPTION OF THE PROJECT**

### **A. Project Background**

The Company's South Division Street Substation is served by both 69 kV and 138 kV lines. This substation had two 138/69 kV transformers located at the site along with 69/12 kV distribution transformation and circuits. The South Division Street Substation sits in a flood plain. Since the location of the predominant electricity usage within the Company's service area is changing due to development, both incurred and expected, the Company constructed a new substation outside of the flood plain so that distribution circuits could be more properly managed. One of the two 138/69 kV transformers was re-located from the South Division Street Substation to the Company's new substation to help create a more reliable system and to facilitate a future upgrade of its electric supply from the north from 69 kV to 138 kV. The new substation, known as the West Third Street Substation, is fed by new transmission lines that originate at the South Division Street Substation. The Company constructed the new substation and transmission line to improve reliability under a single contingency outage.

### **B. Proposed Route and Line Characteristics**

The Company has constructed and is operating approximately 1.36 miles of 69 kV and 138 kV dual voltage, multi-grounded transmission line from its South Division Street Substation to its new substation on West Third Street, Mt. Carmel, Illinois. The route of the 69 kV and 138 kV transmission line is described on Exhibit "A" to the Petition, and is shown as an orange dotted line on Map Exhibit "A" to the Petition. The South Division Street Substation was enlarged to accommodate the additional transmission lines leaving that substation. Also, land had to be purchased for the new substation.

The right-of-way acquired for the line was 100 feet wide and only varied in width at corners or where geographic limitations existed. The right-of-way location was selected based on the shortest distance and by considering public highways, residences, business locations and other reasonable factors. The Company acquired all the necessary property rights for the transmission line and for the substations without eminent domain authority.

The Company utilized single pole metal structures for the transmission line, with pole heights ranging from 70 to 90 feet. The average span length is 285 feet. The transmission line contains 57 structures and 20 guys.

Approximately 12.64 acres of right-of-way along the transmission line route are in cropland, 3.02 acres are in wooded land, 0.31 acres are in other forms of agricultural land, and 1.83 acres are in non-agricultural impact areas. The Company acquired 0.37 acres to expand the South Division Street Substation and 3.86 acres for the new substation.

### **C. Other Governmental Agencies**

The Company performed studies and has made agreements with the following governmental agencies: Illinois Historic Preservation Agency; U.S. Army Corps of Engineers; City of Mt. Carmel; Illinois Department of Transportation; Illinois Department of Natural Resources; and the Illinois Department of Agriculture. No reason to deny the project was received from these agencies. The Company and the Illinois Department of Agriculture have entered into a Mitigation and Impact Agreement, a copy of which was admitted into evidence in this proceeding as MCPU Exhibit 2.0.

### **D. Request for Variance from 83 Ill. Adm. Code 300.70**

The Company contacted and met with the landowners along the route associated with this project without issuing a formal Part 300 notice to all landowners. The Company provided information to landowners about the proposed project, including the route proposed for the Company's transmission line, at an April 3, 2003, informational meeting held by the Company. The Company acknowledged that its communications with landowners regarding obtaining property rights for its substation and transmission line was not in strict conformance with the requirements of 83 Ill. Adm. Code 300. Further, the Company did not file with the Commission the proposal before initiating contact with the landowners and before commencing construction. The Company requested a waiver or variance of the provisions of 83 Ill. Adm. Code 300 under Section 300.70.

All landowners were willing to cooperate with the Company and provided easements and land as the project required. Staff later reviewed the project and has recommended the Commission issue a certificate as applied for. The Company has asked for a variance from 83 Ill. Adm. Code 300.

## **III. POSITION OF MT. CARMEL PUBLIC UTILITY**

The Company presented the testimony of Mr. Dan Long with SPI Energy Group, a consulting firm that works on behalf of the Company. The testimony was presented as MCPU Exhibit 1.0. Mr. Long described the transmission line and substation that the Company constructed, the overall system conditions of the Company, the long-range plan of the Company, and how the transmission lines and new substation fit into those plans.

Mr. Long testified that the transmission line is 1.36 miles in length and extends from the Company's current South Division Street Substation to the new West Third

Street Substation. Alternate routes were reviewed and the chosen route was to avoid city streets, a residential subdivision and other residential housing. The landowners of the agricultural area were consulted and their requests for locations were implemented. Mr. Long testified that the route was the least cost of all available options and gave supporting testimony for that conclusion.

The Company witness, Mr. Long, stated that the South Division Street Substation had to be enlarged to accommodate the new transmission lines and additional ground was purchased for that purpose. Land was also purchased for the new substation. The landowners all gave easements for the new transmission lines and therefore no eminent domain was or will be contemplated for this project.

Mr. Long gave a historical background of the transmission system of the Company. The previous system configuration consisted of 2 separate 69 kV transmission lines, one connected to a Central Illinois Public Service Company ("CIPS") substation at Albion, Illinois, and the other one connected to a CIPS substation at Lawrenceville. Over time as system load grew, and with constraints on the CIPS system, the need to upgrade the 69 kV line from Albion arose. The Company upgraded the South Division Street Substation to handle 138 kV transmission and transformation to 69 kV. The conductor on the Lawrenceville line is capable of handling service at 138 kV. In the event that the Albion line is out of service, the Lawrenceville line could exceed its capacity under high load conditions. Therefore, the Company plans to eventually have the Lawrenceville line operated at 138 kV. This is limited currently by Ameren constraints at its substation.

Mr. Long testified that by moving one of the 138/69 kV transformers from South Division to the new substation, it eliminates the risk of having both transformers in a flood plain, and it also helps move towards an eventual 138 kV loop around the City of Mt. Carmel. Mr. Long stated that this will eliminate the possibility of any load going unserved due to 2<sup>nd</sup> contingency outage conditions. As the project for the loop proceeds, the Company says it intends to come back to the Commission for an additional certificate of public convenience and necessity as required.

Mr. Long further testified regarding the other substations in the Company's system. His testimony showed the capacities of the substations, the historical loads on them, and the concerns that they are at or near capacity.

The Company witness Long testified that all other utility companies that might be affected by the project had been contacted and there were no issues. Further, all other government agencies had been contacted and there were no problems with the project. The Company entered into a Mitigation and Impact Agreement with the Illinois Department of Agriculture, a copy of which was admitted into evidence as MCPU Exhibit 2.0. The project has complied with the agreement.

Mr. Long testified that the project was complete. The Company had previously filed for a certificate on this project, but withdrew it when Staff noted issues in the filing.

Mr. Long stated that because the Company had already begun the process for filing a request for increased electric and natural gas rates, the Company believed it could alternatively include justification for the project in its rate filing. The Company believed that it would be a more efficient process than having two separate dockets. Staff disagreed and therefore, the Company filed this certificate docket.

#### **IV. POSITION OF STAFF; CONCLUSIONS OF THE COMMISSION**

Staff presented testimony from Mr. Greg Rockrohr and Ms. Janis Freetly. The purpose of Mr. Rockrohr's testimony was to offer an opinion as to whether the Commission should grant the Company the relief it requested in this docket. The purpose of Ms. Freetly's testimony was to present her evaluation of the financial implications of the proposed construction under Section 8-406-(b)(3) of the Act.

Staff witness Rockrohr testified that he had reviewed the Company's CWIP (construction work in progress) investment in Docket 07-0357, which is the Company's request for an increase in electric and natural gas rates. He further testified that he found the Company's investment in West Third Street Substation and the associated transmission lines to be prudent; however he recommended a disallowance of \$663,788 because MCPU had never received a certificate of public convenience and necessity for the transmission line that it had constructed. Mr. Rockrohr recommended that the Company seek a certificate of public convenience and necessity for the project for allowance of the CWIP investment in the rate case.

Mr. Rockrohr stated that he used the criteria in Section 8-406 of the Act to develop a recommendation that the Commission to grant the Company the certificate requested in this docket. His testimony was that the project was necessary in order for the Company to provide adequate and reliable service to its customers. This was because the Company had two distinct conditions that negatively affected its reliability and ability to provide reliable service. These conditions were: (1) during peak loading conditions, the Company was dependent upon the 138/69 kV transformation at its South Division Street Substation which was susceptible to flooding, and (2) during peak loading conditions, the Company had inadequate transformer capacity at its existing substations to provide service to its customers if one of its substations became unavailable.

In response to the Company's testimony regarding further construction, Mr. Rockrohr testified that the Company should request a separate certificate of public convenience and necessity for constructing its planned 138 kV loop west of Mt. Carmel only after thoroughly considering all reasonable alternatives to satisfy its operating needs, and before it begins construction of the project.

Staff witness Rockrohr testified that the Company failed to follow the 83 Ill. Adm. Code 300 Guidelines for Rules for Right-of-Way Acquisitions. This came from failing to file an informational packet with the Commission and also for failing to make the initial landowner contacts in conformance with 83 Ill. Adm. Code 300. Mr. Rockrohr further

testified that he recommended the variance because he is not aware of a statute which mandates 83 Ill. Adm. Code 300, and he is not aware that any party would be injured by the variance. Mr. Rockrohr made it clear that he does not condone the Company's failure to follow 83 Ill. Adm. Code 300 but feels that requiring the Company to meet the requirements of 83 Ill. Adm. Code 300 after the Company already obtained property rights from landowners would serve no purpose. Mr. Rockrohr testified that, in addition to filing for a certificate of convenience and necessity, the Company should comply with Part 300 if and when it decides to construct any transmission lines in the future.

Ms. Janis Freetly testified in ICC Staff Exhibit 2.0, that Section 8-406(b)(3) of the Act requires the Commission find "that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers." The total estimated cost of the substation and the transmission lines is \$2,951,275. Ms. Freetly testified as to the manner in which the project was paid and financed. She stated that the Company financed the line and substation without significant adverse financial consequences for the Company or its customers.

Staff witness Freetly testified that the Company has met the requirements of Section 8-406(b)(3) of the Act. She stated it is her conclusion that the Company is capable of financing the line and substation without significant adverse financial consequences for the utility or its customers.

Having reviewed the record of this proceeding in its entirety, the Commission is of the opinion and finds that the Company should be granted a Certificate of Public Convenience and Necessity authorizing the described construction. The record supports a finding that the project is needed to provide adequate, reliable and efficient service to the Company's customers; that, all things considered, the selected route is the least-cost means of meeting the Company's customers' needs; that the Company is capable of efficiently managing and supervising the construction process; and the Company is capable of financing the proposed construction without significant adverse consequences for the Company or its customers. Additionally, given the circumstances present here, the Commission finds that the Company's requested variance from the requirements of 83 Ill. Adm. Code 300 should be granted.

In regards to the timing of the Petition for a Certificate of Public Convenience and Necessity, while the Commission recognizes that MCPU is a relatively small public utility, it still has an obligation to comply with the requirements of the Act and the Commission's rules. The Commission strongly urges the Company in the future, to request a Certificate of Public Convenience and Necessity prior to the commencement of construction. Such a process is in place to protect public utilities, their customers and potentially affected landowners.

## **V. FINDING AND ORDERING PARAGRAPHS**

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion, and finds that:

- (1) the Company is an Illinois corporation engaged in the transmission, distribution and sale of electric energy to the public in the state of Illinois and is a public utility within the meaning of The Public Utilities Act;
- (2) the Commission has jurisdiction over the Company and the subject matter hereof;
- (3) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) the route for the Company's 69/138 kV transmission line is approximately 1.36 miles in length and is legally described in Exhibit "A" to the Application filed herein; this route was selected after due consideration was given to the cost of construction, minimization of interference with present land use and other factors; the route appears to be feasible and practical;
- (5) the 69/138 kV line is necessary to provide adequate, reliable, and efficient service to the Company's customers and is the least-cost means of satisfying the service needs of its customers; construction of this line will promote the public convenience and necessity and is reasonably necessary thereto;
- (6) the new West Third Street substation is necessary to provide adequate, reliable, and efficient service to the Company's customers and is the least-cost means of satisfying the service needs of its customers; construction of this substation will promote the public convenience and necessity and is reasonably necessary thereto;
- (7) the Company has demonstrated that it is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof;
- (8) the Company has demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for itself or its customers;
- (9) in connection with the construction and maintenance of the line, the Company should comply with the terms and conditions of its Mitigation and Impact Agreement with the Illinois Department of Agriculture that was admitted into evidence as MCPU Exhibit 2.0;
- (10) a Certificate of Public convenience and Necessity and a variance from 83 Ill. Adm. Code 300 should be granted to the Company for the construction, operation and maintenance of the 69/138 kV electric transmission line and

substation along the route described in Exhibit A to the Application filed herein.

IT IS THEREFORE ORDERED by the Commission that a Certificate of Public Convenience and Necessity is hereby granted to Mt. Carmel Public Utility Co. pursuant to Section 8-406 of the Public Utilities Act for the construction, operation and maintenance of approximately 1.36 miles of 69/138 kV electric transmission line and a substation, as described in the record and Order herein, along a route described in Exhibit A to the Application filed herein, and for the transaction of a public utility business in connection therewith.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity herein granted shall be the following:

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that public convenience and necessity require (1) the construction, operation and maintenance by Mt. Carmel Public Utility Co. of approximately 1.36 miles of 69/138 kV electric transmission line and a substation along a route in Wabash County, Illinois as described in Exhibit A to the Application filed herein, and (2) the transaction of a public utility business in connection herewith.

IT IS FURTHER ORDERED that a variance from the requirements of 83 Ill. Adm. Code 300 shall be granted to the Company for the construction of the transmission line and substation described by this Certificate of Public Convenience and Necessity.

IT IS FURTHER ORDERED that in connection with the construction and maintenance of the transmission line, Petitioner shall comply with the terms and conditions contained in MCPU Exhibit 2.0.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 30th day of January, 2008.

(SIGNED) CHARLES E. BOX

Chairman